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HARRISBURG, PA

MAR 01 2000

MARY E. DIANDREA, CLERK
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CLARENCE FRANKLIN,

Plaintiff,

v.

THE PENNSYLVANIA DEPARTMENT
OF CORRECTIONS, MARTIN F. HORN,
KENNETH D. KYLER AND
ROBERT VIA

Defendants.

CIVIL ACTION NO. 1:CV-00-0238

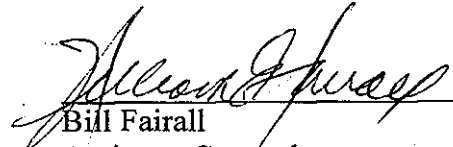
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DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT

Defendants, by and through their attorney, William E. Fairall, Jr., Deputy Chief Counsel, Pennsylvania Department of Corrections, hereby move this Court, pursuant to Federal Rule of Civil Procedure 12(b), to dismiss Plaintiff's complaint against them for failure to state a claim upon which relief may be granted.

WHEREFORE, Defendants respectfully request that Plaintiff's complaint be dismissed with prejudice.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Bill Fairall", is written over a horizontal line.

Bill Fairall
Assistant Counsel
Attorney ID # 20840

PA Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: March 1, 2000

**IN THE UNITED STATES DISTRICT COURT
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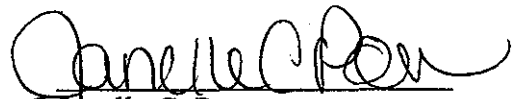
Defendants.

CIVIL ACTION NO. 1:CV-00-0238

CERTIFICATE OF SERVICE

I hereby certify that I am this day depositing in the U.S. mail a true and correct copy of the foregoing Defendants' Motion to Dismiss Plaintiff's Complaint upon the person(s) and in the manner indicated below.

Service by first-class mail
addressed as follows:


Janelle C. Porr
Clerk Typist II

PA Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: March 1, 2000

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CIVIL ACTION NO. 1:CV-00-0238

ORDER

AND NOW, this ____ day of March, 2000, upon consideration of the Defendants'
Motion to Dismiss Plaintiff's Complaint, it is hereby ordered that said motion is **GRANTED**.

BY THE COURT:

J.